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KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
June 17, 2008**

Present: Commissioners Lythgoe, Notbohm and Weber; Mike Hoffman, County Planner; Bonnie Ramey, Clerk and Recorder; Kevin Everette – Mountain States Transmission Inter-tie; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Barry Wareham, Dave Kirsch, Don & Diane Burton, Celia Wolny, Bob Marks, Caroleen Vaughan

MINUTES

Commissioner Weber moved to adopt the minutes of May 6. Commissioner Lythgoe seconded. The motion carried.

Commissioner Weber moved to adopt the minutes of May 13. Commissioner Lythgoe seconded. The motion carried.

CALENDAR REVIEW

- 6/18 Elkhorn Citizen Advisory Group – 10:00
Horizons Human Resources lunch – St. Catherine's – noon
- 6/19 RMDC – Helena – 3:30
Clancy Library subcommittee – 6:00
- 6/24 Solid Waste Board – 6:00

SUBDIVISION REVIEW

FINAL PLAT APPROVAL – BURTON MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report on this one-lot split minor subdivision outside of Whitehall. The parcel contains 20.001 acres and is proposed to be split into two lots 7.81 and 12.19 acres in size. The developer has contacted the local volunteer fire department, and will provide a cash-in-lieu payment of \$855.00. Mike recommended that final plat approval be granted.

Commissioner Weber moved to grant final plat approval to the Burton Minor subdivision. Commissioner Notbohm seconded. The motion carried.

June 16, 2008 minutes.wpd

PRELIMINARY PLAT APPROVAL – AMENDED PLAT – LOT 5 – FLINTLOCK MINOR SUBDIVISION

Mike presented his staff report on this one-lot split located northeast of Montana City. The parcel contains 10.47 acres which is proposed to be split into two lots 5.00 and 5.47 acres in size. Finding of Fact 5 states that the subdivision as conditioned cannot be reasonably accommodated by existing proposed local services. The subdivision's impact on local services is within the range of normally expected impacts associated with residential developments of this size, but an on-site visit by Jefferson County personnel has identified a site-specific characteristic consisting of a large drainage negatively impacting the ability of local emergency services to respond to a medical, fire or police emergency within the proposal. This impact will require adequate mitigation measures to correct the deficiency. The site contains significant indication of noxious weeds, as found by the Jefferson County Weed Coordinator. Condition of Approval 3 requires that pretreatment of noxious weeds is required before any construction activities. There are no new proposed roads within the subdivision, but a drainage inhibits ingress/egress to the parcel. The developer will upgrade the proposed private driveway access easement located within the parcel to a 40-foot width, 20-foot driving surface built to a 10% grade or less ending in a cul-de-sac designed to accommodate the ingress/egress of emergency vehicles. The developer has agreed to a cash-in-lieu payment of \$855 to the Montana City Volunteer Fire Department. Mike recommended that preliminary plat approval be granted.

Commissioner Weber asked regarding condition of approval 7 why they are going with the specified size of aggregate. Mike stated that this is the recommendation of the road supervisor, due to the road conditions. Commissioner Weber asked about road as drawn on plat. Mike stated that the recorded easement has never been developed, but it could be. The way that it ties in works well with the new construction.

Commissioner Lythgoe asked if there is a stamped, engineered road plan. Mike stated that there isn't, as this is a driveway rather than a road.

Commissioner Lythgoe moved to grant preliminary plat approval. Commissioner Notbohm seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

OPEN AND AWARD JAIL MEAL BIDS

One bid was presented, from the Mountain Good Restaurant. The bid was for \$3.32 per meal. Commissioner Weber moved to award the jail meal contract to Mountain Good Restaurant. Commissioner Notbohm seconded. The motion carried.

KEVIN EVERETTE – POWER ENGINEERS INC. – UPDATE ON MONTAIN STATES TRANSMISSION INTER-TIE PROJECT – PREFERRED ROUTE AND ALTERNATIVES

Kevin Everette, Power Engineers Inc., stated that after the initial study, quite a few routes were eliminated. The outcome was that the preferred alternative starts at a substation at Townsend,

comes across the Missouri River a little north of Radersburg and comes to the east of the Black Sage Wilderness Study Area then across the hills over toward the mine in Boulder. He stated that it follows the freeway by Whitehall, staying away from the subdivisions to the north, then comes up and goes through Butte up to Mill Creek and follows the I-15 corridor and the existing 161kv route down the I-15 corridor. There are two alternative routes. The second alternative parallels the Coalstrip line then drops down and connects into Mill Creek, then drops down and follows the 230kv route, splits at Melrose comes out through Peterson Flats a bit to the west of the Clark Reservoir and down the Big Sheep Valley into Idaho. The third alternative is dropping down from Townsend to Three Forks following existing lines to Mill Creek, then down the freeway. He stated that the key is that these are the alternatives that are submitted. The application will be filed the end of the month. Commissioner Weber asked if this goes to public comment. Kevin said that it will have state review, and then go through the EIS process. The lead agency at the state is DEQ, and the federal agency is the BLM; it will be a joint EIS. According to time line, they are estimating 2011 – 2013.

Commissioner Lythgoe asked if the preferred route follows any existing route. Kevin stated that it does, as soon as it hits the freeway. It surprised him that they picked this as the preferred route, as there is a tremendous amount of subdivision activity in the Three Forks area.

Commissioner Weber asked if documents used to develop the alternatives are available to the Commission. Kevin stated that as they are filed with the DEQ, they will become available to the public. Commissioner Lythgoe asked where the proposed line follows the existing route, how far away it is from the existing line. Kevin stated that it will be in close proximity, although it can't be too close. He noted that after 9-11, there must be a separation so that both lines can't be knocked out.

Kevin stated that 38.9 miles of the proposed line is in Jefferson County. Twenty percent of the route is in Montana. Construction will cost approximately \$2 million a mile which is a major expense and a tremendous economic benefit.

Kevin stated that now, the process basically starts over with the re-scoping of the project and identifying any mitigation needed. Commissioner Weber said it appears to him that each follow a roadway. Kevin said that they use existing corridors; no roads that he is aware of. The EIS scoping will start by July or August. A third-party contractor will be hired and right-of-way acquisition will begin. He was asked at another meeting if economic benefit is a reason to support this. This will free up smaller lines and allow for renewable energy.

Commissioner Notbohm asked if the power will originate from Coalstrip. Kevin answered that it will come from Coalstrip and from the northwest grid; it could be a variety of sources. Commissioner Notbohm said that he has heard on the news that Coalstrip 4 is for sale, and asked if this would impact the project in any way.

Sean Fitzpatrick with NorthWestern Energy stated that Coalstrip 4's power is currently divided between sales out of state and roughly half is used in Montana. This transmission line has nothing to do with the sale of Coalstrip 4.

Marga Lincoln, *Helena Independent Record*, stated that at the meeting held in Townsend, Kevin fielded a question regarding geothermal production. She stated that before the meeting he said that it is not appropriate to try to hook this up to the transmission line. She asked what size a project would have to be to be able to hook into the line. Kevin said that the companies looking at developing alternate resources need to work with major power companies and see where they can hook in. People looking for wind power projects will come in and look at counties and see how close the wind farms are to the transmission lines; it's all economics. The project they are talking about is a long-term study of where the geothermal resources are and where they can come in and drill and where they can hook up for transmission. These are longer-term projects that don't affect this project. Commissioner Weber stated that they wouldn't actually hook into this line, but into a smaller line when these larger lines go live. Kevin stated that there is a tremendous potential for wind energy in Montana and Wyoming.

Bob Marks stated that he has had some experience on power coming through Jefferson County. Montana Power came in and put in a big line and promised to pay big taxes and then reneged. He noted that it might be of use to the Commission and to the public to indicate how much private land is to be affected and where it is, if they haven't already. He noted that it is hard for people to come to meetings like this and comment when they have no idea where the line will be located. He was at some meetings where rough lines were drawn, and the line stopped when it left public land, it didn't say anything about private land. He asked if there has been any indication of the economic benefit, if all four alternatives will be presented in the EIS, and if the decision being made would be reviewed by a regulatory group or by the power companies that are interested. Commissioner Weber stated that the regulatory entities will be DEQ and BLM jointly. Bob asked if all of the alternatives will be presented, including the preferred one. Kevin stated that the alternatives that are presented here are a direct result of the Major Facilities Siting Act application. Commissioner Lythgoe asked if this information is available now and able to be presented to this Commission – the routes through Jefferson County and the ownership. He would be interested on the preferred routes just exactly whose land it is going through. For us to even consider this, we need to know names and places.

Marga stated that what she got from the handout is that the BLM office in Dillon possibly weighed in on preferred alternative, but when she talked to the BLM in Butte, a lot of them didn't know anything about the preferred route going past the Black Sage wilderness area; it was basically news to them. She asked if the Butte office was a part of selecting the preferred route. Kevin stated that he didn't attend all of the meetings, but he can get information about who met with whom. The first week of June they had a meeting with all of the state agencies that are involved. By July-August they will pick a lead person who will take over and Northwest Energy will no longer be involved at that point. Marga stated that she is also concerned that Kevin's answer contradicts a former answer regarding alternative energy projects. Kevin stated that this is a way down the road; they need to have bigger lines set up to free up the smaller lines that the alternative energy will hook into.

Dave Kirsch asked in comparison to the lines we have now, will the new lines be bigger or smaller. Kevin stated that they will be the same size towers. Dave asked what if he owned ranch land in line with the tower and he didn't want the line through his property. Kevin stated that he would need to go to the public meetings and voice his opinion. Each individual right-of-way has

to be negotiated separately. Dave asked why they don't just follow the corridors they currently have. Kevin stated that the majority of them will.

JOE SCHMAUS – REQUEST TO BE REMOVED FROM SOUTH HILLS RID

Mr. Schmaus was not in attendance and he did not send anything to the Commission outlining his request. Commissioner Lythgoe stated that he doesn't think that there is any way that they can legally remove him from the RID.

RESOLUTION 23-2008 PROPOSING LEVY FOR SPECIAL ASSESSMENTS – SADDLE MOUNTAIN RID/RMD

Commissioner Weber read the resolution, which outlines the levy for special assessments for the Saddle Mountain RID/RMD that was formed last year. Commissioner Lythgoe moved to adopt as amended. Commissioner Weber seconded. The motion carried.

DRAW LOTS FOR PRECINCT COMMITTEEMAN/WOMAN TO BREAK TIE VOTES

Lots were drawn to break tie votes. The results were as follows:

Precinct 6 Democratic man - John Roylance
Precinct 20 Democratic man – Richard Starkel
Precinct 4 Republican man – Terry Ross
Precinct 7 Republican woman – Carol Kukes
Precinct 12 Republican man – Burton Whitaker
Precinct 20 Republican man – Dan Dahl
Precinct 27 Republican woman – Ellen Blalock
Precinct 26 Republican man – David Puckett
Precinct 26 Republican woman – Jacqueline Trude

OPEN BIDS FOR AUDIT SERVICES

Two bids were presented for consideration. The bids were as follows:

Denning, Downey & Associates: FY08: \$17,500 FY09: \$18,500 FY10: \$19,500

Wayne Hintz: FY08: \$17,900 FY09: \$18,050 FY10: \$18,930

The bids will be given to Bonnie to review for completeness.

AWARD BID FOR MOVING WATER TANKS

Commissioner Weber read the bids as follows:

RS Guilio \$5,400
TMK \$1,500
Double Stud \$2,400

Commissioner Lythgoe moved to award the bid to move the tank to TMK Construction.

Commissioner Weber seconded. Commissioner Notbohm stated that he wants to go on record that he is adamantly opposed to this, which he will go into greater detail when they discuss the next bids. The motion carried, with Commissioner Lythgoe and Commissioner Weber voting aye and Commissioner Notbohm voting nay.

AWARD BID FOR INSTALLATION OF WATER STORAGE TANKS AND FIRE SUPPRESSION SYSTEM AT RIDGEVIEW ESTATES

Commissioner Weber read the bids as follows:

TMK	\$48,250
Double Stud	\$100,500
RS Guilio	\$76,280

Commissioner Lythgoe moved to award the bid to TMK for water storage tank installation. Commissioner Weber seconded. Commissioner Notbohm said that during the process of approving a subdivision, it was required that the developers were to put a water storage facility on their 13-lot subdivision. He felt that this was totally out of line and that the local fire department was getting out of control. Later, he and Commissioner Lythgoe voted to grant a variance to the developer that they would not be required to install the water storage facility. The result was that the Montana City Volunteer Fire Department threatened to sue the county over this. He wants to make it clear that he is a personal friend of the developers, as is Commissioner Lythgoe. He feels that it would be entirely inappropriate to use taxpayer money to do this project and essentially put it into the developer's pockets. He wouldn't do this for a family member. Commissioner Weber stated that this illustrates that they need to pay close attention to the wording in subdivision documents. The motion carried, with Commissioner Lythgoe and Commissioner Weber voting aye and Commissioner Notbohm voting nay.

COMMISSION REPORTS

JLDC ANNUAL PLANNING MEETING

Commissioner Lythgoe reported that he attended the JLDC annual planning meeting the previous Wednesday. They had a facilitator in to discuss plans for the coming year and also the budget. He said that it was a good meeting; he thinks that there is a lot on JLDC's plate, a lot working with economic development. They have made a lot of progress and have some success stories, such as the affordable housing projects underway in Boulder and Whitehall.

BUILDING EXPANSION

Commissioner Lythgoe reported that he and Commissioner Weber met on Thursday with the architect for the expansion of the former Wagner property. There was a good turnout of county staff with good input. One option that was discussed and that makes sense is not to connect the two buildings. This will maximize space in existing building. They talked about the needs of the county attorney and additional office space in that building and also looking at building a Commission chambers so that we would not be using the courtroom any longer. The architect will be back on the 30th for a charrett exchange information. The plan for the Commission is to move over there sooner rather than later. Phones, etc. should be installed in the next few

weeks.

ELKHORN WORKING GROUP

Commissioner Lythgoe reported that he attended the Elkhorn Working Group meeting Thursday afternoon also. Shane from the Elkhorn Mine was in to give a presentation. Brud Smith was there also; and he has been a pretty good conduit before Shane came for information. A lot of questions were asked, particularly about people's personal wells, surface disturbance, how much of a footprint they would have, and what kind of mine it would be. Everyone was very comfortable at the end of the meeting. The Elkhorn Working Group has written a letter in support of the mine to DEQ.

WEED BOARD

Commissioner Lythgoe reported that he attended the weed board meeting Thursday night. They are happy that the weed mill levy passed.

ELKHORN ROAD REVIEW

Commissioner Lythgoe reported that he and Melissa drove Elkhorn Road the previous day looking for survey points. The judge has requested for someone to identify just where the road is or has been, the proximity to the creek, etc. Melissa is in the process of writing up a report.

POTENTIAL RID

Commissioner Lythgoe reported that he attended a meeting with residents of the Moonlight Ridge subdivision regarding the formation of a RID and all were very interested. Mark Taylor is the contact person and will be contacting Commissioner Lythgoe. The Monday before he met with Jack Mountain homeowners, and they want to do the same.

MEETING WITH MARK REY

Commissioner Weber reported that he went to Headwaters RC&D in Butte met with Dave Schultz and Mike McGinnley as well as a couple members of Citizens for Balanced Use. They called an attorney in Colorado that has been instrumental in forest plan writing and revision in other states. The concern is that the Forest Service is following its procedures to do forest management plan and travel management plans, but have stepped out of bounds where it relates to the partnership strategy. They allowed the partnership strategy to come in with their comments after the comment period had expired and then revised their recommended alternative to very much include the partnership strategy. While all that was going on, the partnership group has also been back to DC meeting with legislators and Mark Rey to present what realistically can be called a wilderness bill. The lawyer's take on the situation is that we are in a critical time period where if we met with Mark Rey set up and meet with the head of the Forest Service, they might possibly have time for them to understand our concerns as counties and local governments better, and maybe impact forest planning process before they make a decision. It has been her experience that if you wait until the record of decision is out, it is much harder and it is guaranteed that you will have to go to court to make any impact at that point. If we want to save going to court and still impact, we need to act fairly rapidly. The lawyer is also willing to help us get to Mark Rey, legislators and agency upper management regarding SRS and PILT. She has been successful in the past in these areas and it sounds like we can still have an impact on what is

happening if we act soon. Mike and Dave will be following up.

ROAD ISSUES

Commissioner Weber reported that he met with Joe Carter on the north end the previous day regarding some road issues, and they had some good discussion.

RIDGEVIEW ESTATES COMMENTS

Commissioner Lythgoe stated that as he thought about what Commissioner Notbohm said about the Ridgeview issue, and asked if it would be appropriate for him to give a short response. Commissioner Weber stated that he would allow it. There are a lot of people, a lot of individuals that come to the Commission for a variety of reason, including subdivisions, that are personal friends. He is not sure what that has to do with anything. If, in fact, we as Commissioners have to recuse ourselves, there probably wouldn't be a lot they could act on. When he and Commissioner Notbohm looked at the situation and found it unfair, and he still agrees with Commissioner Notbohm that it was unfair for anyone in that geography to be required to put that type of system in, and that is why he voted with Commissioner Notbohm to grant a variance after the preliminary plat was submitted. It later came to light that Mr. Abraham was very upset with the decision and threatened to sue the County. That was not the reason he changed his mind. The reason he changed his mind was because we didn't follow the law and our county policy when it comes to preliminary plat. If a developer comes in with a preliminary plat and we approve it, we can't change it afterward. If they have problems with something during preliminary plat, that is the time to deal with it. It was not appropriate for him and Commissioner Notbohm to make that change. He feels, as does Commissioner Notbohm, that the county having to come in and install that system is not a good thing. But, they made a mistake and we have to pay for that mistake because we made a bad decision. It has nothing to do with friendship, it has nothing to do with anything other than we did it wrong the first time and we have to correct that. It is going to cost the county money because we did it wrong.

Commissioner Notbohm stated regarding what Commissioner Lythgoe is saying, he didn't go to Commissioner Lythgoe, Commissioner Lythgoe came to him. He went along with him because he felt it was time that they dealt with the problem. Both of them knew that there were going to be repercussions. For Commissioner Lythgoe to back out after Rick Abraham threatened us is ridiculous. To put two tanks up there on a bare hillside in an unsafe place because Rick wants it is ridiculous. He feels like he was duped and Commissioner Lythgoe switched around so that we are paying for it. We have no business paying for something on private property. For the strong personal connection both have with the developer, makes it look even worse. Where is the money coming from; we are already operating this budget year on deficit.

Commissioner Notbohm left the meeting at this time.

CORRESPONDENCE

~ Commissioner Lythgoe stated that the county has received a request from Rebecca Jones. She

owns property that an abandoned trailer is on. She has a trailer that she wants to move onto her property, but can't move the old one because there are taxes owing in the amount of \$2,549.28 as of 5/30/08. The trailer is abandoned and no one is willing to pay the back taxes. Commissioner Lythgoe noted that she does have someone that is willing to take the trailer. She made the request to Patty to forgive the taxes, which was forwarded to the Commission, as we are the only one able to do this. Commissioner Weber asked who owns the trailer. Commissioner Lythgoe stated that a man by the name of Platt is listed, but he cannot be located.

Commissioner Lythgoe moved to find out the exact amount owed and direct Patty to remove it from the tax rolls and to pursue trying to find the owner. They need to take some sort of action to allow the trailer to be moved; it appears the only way to do that is to forgive the taxes. Don't know how long to try to locate the owner. He has indicated that he doesn't want the trailer and he isn't going to pay the taxes. Commissioner Weber asked if our system is somehow penalizing Rebecca Jones. Commissioner Lythgoe stated that it appears to him that it is, as the trailer can't be moved with taxes owing. Commissioner Weber seconded the motion. The motion carried.

~ Commissioner Lythgoe read a letter from Mr. and Mrs. Snitko regarding tax bills. They maintain that they are being billed for property that they didn't own, in the amount of \$1,407.04 as of 12/2007. Commissioner Weber asked Commissioner Lythgoe if he spoke with the Department of Revenue about this. Commissioner Lythgoe stated that they sent it to us. People call the Treasurer's office and they tell them to call us. Commissioner Lythgoe stated that he will look into this further.

~ Commissioner Weber stated that the Commission has received a petition for annexation into the Jefferson Valley Rural Fire District. The petition has been certified by the Clerk and Recorder and will be set for a public hearing.

~ A memo to the Clerk and Recorder was presented for signature. The County Attorney wants to transfer remaining fund in the budget to capital outlay to save money for needed technology updates for jury trials. They have been informed that the courtroom is not up to par for those people who need to see video or any other kind of monitors; they need to be able to provide monitors for any who need them. He wants to set aside funds to become compliant.

~ Commissioner Weber read a memo to Bonnie authorizing transfer of funds within the County Attorney budget.

~ Commissioner Weber stated that the Commission has received the grant application and agreement for the Noxious Weed Trust Fund. Commissioner Weber moved to sign the documents. Commissioner Lythgoe seconded. The motion carried.

~ Commissioner Weber moved to sign cooperative agreements with the DNRC for fire control and equipment. Commissioner Lythgoe seconded. The motion carried.

Commissioner Lythgoe stated that he wasn't aware that we were operating with a deficit.

Commissioner Weber stated that we aren't.

OPPORTUNITY FOR PUBLIC COMMENT

Caroleen Vaughan stated that there is a correction regarding to whom the letter of thanks to Montana Fish, Wildlife and Parks for historical designation should be addressed. Commissioner Weber asked Caroleen if she would draft a letter that can be put on Commission letterhead.

Caroleen stated that she also wanted to ask Commissioners to consider a County Archives, such as they have in Butte. She understands that there is a process for destruction of documents no longer needed. She suggested that the County Attorney be brought in to evaluate if the Butte Archives is doing this and if there are permanent or temporary loans between offices. Commissioner Weber stated that there are county archives and asked Caroleen if she has talked to Bonnie. Caroleen stated that she has not. Commissioner Weber stated that she archives all original documents that cannot be destroyed without due process. He suggested that Caroleen talk to Bonnie; he doesn't think that Bonnie can loan from her archive to elsewhere, but he is not entirely sure.

Caroleen stated that she also wanted to ask the Commission if they would entertain a letter of encouragement to local properties, such as the Boulder City Hall and the Basin and Cardwell Schools, which could be listed on the National Register. Commissioner Weber asked her to draft something and said that the Commission would be happy to send it out.

Commissioner Lythgoe moved to adjourn. Commissioner Weber seconded. The motion carried.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER

